

Senate File 2036 - Introduced

SENATE FILE 2036

BY D. JOHNSON

A BILL FOR

1 An Act reducing the size of certain confinement feeding
2 operations that qualify for exemptions from separation
3 distance requirements, and including effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459.102, Code 2018, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 51A. "*Small confinement feeding operation*"
4 means a confinement feeding operation that has an animal unit
5 capacity of three hundred or fewer animal units.

6 Sec. 2. Section 459.202, subsection 1, paragraph a, Code
7 2018, is amended to read as follows:

8 a. Except as provided in subsection 3 and sections 459.203,
9 459.203A, 459.205, and 459.206, this subsection applies to
10 confinement feeding operation structures constructed on or
11 after May 31, 1995, but prior to January 1, 1999; and to the
12 expansion of structures constructed prior to January 1, 1999.

13 Sec. 3. Section 459.202, subsection 2, paragraph a, Code
14 2018, is amended to read as follows:

15 a. Except as provided in subsection 3 and sections 459.203,
16 459.203A, 459.205, and 459.206, this subsection applies to
17 confinement feeding operation structures constructed on or
18 after January 1, 1999, but prior to March 1, 2003, and to the
19 expansion of structures constructed on or after January 1,
20 1999, but prior to March 1, 2003.

21 Sec. 4. Section 459.202, subsection 3, paragraph a, Code
22 2018, is amended to read as follows:

23 a. Except as provided in sections 459.203, 459.203A,
24 459.205, and 459.206, this subsection applies to confinement
25 feeding operation structures constructed on or after May
26 31, 1995, but prior to March 1, 2003; to the expansion of
27 structures constructed on or after May 31, 1995, but prior to
28 March 1, 2003; and to the expansion of structures constructed
29 prior to May 31, 1995.

30 Sec. 5. Section 459.202, subsection 4, paragraph a, Code
31 2018, is amended to read as follows:

32 a. Except as provided in subsection 5 and sections 459.203,
33 459.203A, 459.205, and 459.206, this subsection applies to
34 confinement feeding operation structures constructed on or
35 after March 1, 2003, and to the expansion of confinement

1 feeding operation structures constructed on or after March 1,
2 2003.

3 Sec. 6. Section 459.202, subsection 5, paragraph a, Code
4 2018, is amended to read as follows:

5 a. Except as provided in sections 459.203, 459.203A,
6 459.205, and 459.206, this subsection applies to confinement
7 feeding operation structures constructed on or after March 1,
8 2003, and to the expansion of confinement feeding operation
9 structures constructed on or after March 1, 2003.

10 Sec. 7. Section 459.202, subsection 6, Code 2018, is amended
11 to read as follows:

12 6. Except as provided in ~~section~~ sections 459.203A and
13 459.205, a confinement feeding operation structure shall not be
14 constructed or expanded within one hundred feet from a public
15 thoroughfare.

16 Sec. 8. Section 459.203, unnumbered paragraph 1, Code 2018,
17 is amended to read as follows:

18 A confinement feeding operation that does not qualify as a
19 small confinement feeding operation, that was constructed or
20 expanded prior to the date that a the applicable separation
21 distance requirement became effective under section 459.202,
22 and ~~which that~~ does not comply with ~~the section's that~~
23 separation distance requirement may continue to operate
24 regardless of the separation distance requirement. The
25 confinement feeding operation may be expanded only if any of
26 the following applies:

27 Sec. 9. NEW SECTION. 459.203A Separation distance
28 requirements for confinement feeding operations qualifying as
29 small animal feeding operations — expansion of prior constructed
30 operations.

31 1. A confinement feeding operation that qualifies as a small
32 confinement feeding operation, that was constructed or expanded
33 prior to the date that the applicable separation distance
34 requirement became effective under section 459.202, and that
35 does not comply with that separation distance requirement

1 on and after the effective date of this Act may continue to
2 operate regardless of the separation distance requirement.

3 2. A confinement feeding operation described in subsection
4 1 may be expanded only if all of the following apply:

5 a. The confinement feeding operation is not expanded by
6 the construction or expansion of an unformed manure storage
7 structure. However, the confinement feeding operation may
8 be expanded by replacing one or more unformed manure storage
9 structures with one or more formed manure storage structures,
10 subject to all of the following:

11 (1) The animal weight capacity or animal unit capacity,
12 whichever is applicable, is not increased for that portion of
13 the confinement feeding operation that utilizes all replacement
14 formed manure storage structures.

15 (2) The use of each replaced unformed manure storage
16 structure is discontinued within one year after the
17 construction of the replacement formed manure storage
18 structure.

19 (3) The capacity of all replacement formed manure storage
20 structures does not exceed the amount required to store manure
21 produced by that portion of the confinement feeding operation
22 utilizing the formed manure storage structures during any
23 fourteen-month period.

24 (4) No portion of the replacement formed manure storage
25 structure is closer to an object or location for which a
26 separation distance is required under section 459.202 than any
27 other confinement feeding operation structure which is part of
28 the operation.

29 b. (1) For a confinement feeding operation constructed
30 prior to January 1, 1999, any construction or expansion of
31 a confinement feeding operation structure complies with the
32 separation distance requirements applying to that structure as
33 provided in section 459.202, subsections 1 and 3.

34 (2) For a confinement feeding operation constructed on
35 or after January 1, 1999, but prior to March 1, 2003, any

1 construction or expansion of a confinement feeding operation
2 structure complies with the separation distance requirements
3 applying to that structure as provided in section 459.202,
4 subsections 2 and 3.

5 (3) For a confinement feeding operation constructed on
6 or after March 1, 2003, any construction or expansion of a
7 confinement feeding operation structure complies with the
8 separation distance requirements applying to that structure as
9 provided in section 459.202, subsections 4 and 5.

10 Sec. 10. Section 459.205, subsection 1, Code 2018, is
11 amended to read as follows:

12 1. A confinement feeding operation structure, if the
13 structure is part of a confinement feeding operation ~~which~~ that
14 qualifies as a small ~~animal~~ confinement feeding operation.
15 However, this subsection shall not apply if the confinement
16 feeding operation structure is an unformed manure storage
17 structure.

18 Sec. 11. Section 459.205, subsection 4, paragraph c, Code
19 2018, is amended to read as follows:

20 c. The liquid manure originates from a small ~~animal~~
21 confinement feeding operation.

22 Sec. 12. Section 459.205, subsection 5, Code 2018, is
23 amended to read as follows:

24 5. The stockpiling of dry manure within a separation
25 distance required between a stockpile and an object or location
26 for which a separation distance is required under section
27 459.204B if any of the following apply:

28 a. The titleholder of the land benefiting from the
29 separation distance requirement executes a written waiver with
30 the titleholder of the land where the stockpile is located.

31 b. The stockpile consists of dry manure originating from a
32 small animal feeding operation other than a confinement feeding
33 operation.

34 c. The stockpile consists of dry manure originating from a
35 small confinement feeding operation.

1 d. The stockpile consists of dry manure originating from
2 a confinement feeding operation that was constructed before
3 January 1, 2006, unless the confinement feeding operation is
4 expanded after that date.

5 Sec. 13. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 BILL'S PROVISIONS — GENERAL. This bill amends the "Animal
11 Agriculture Compliance Act" (Code chapter 459) which in large
12 part regulates confinement feeding operations (operations)
13 including associated confinement feeding operation structures
14 (structures). The bill creates a new category of operation
15 referred to as a small confinement feeding operation that would
16 in part replace a current category referred to as a small
17 animal feeding operation currently exempt from separation
18 distance requirements existing between a benefited object or
19 location and an associated structure.

20 BILL'S PROVISIONS — REQUIRED SEPARATION DISTANCES UNDER
21 CURRENT LAW AND AS REVISED BY THE BILL. Generally, Code
22 chapter 459, subchapter II regulates air quality by requiring a
23 number of separation distances between a benefited object or
24 location and both: (1) an operation's structure (Code sections
25 459.202 and 459.203) and (2) the place where manure is used
26 when removed from a structure, including for land application
27 if the manure is liquid (Code section 459.204) or for temporary
28 stockpiling if the manure is solid (Code section 459.204B).
29 Under the bill, a small animal feeding operation existing
30 prior to the bill's effective date would continue to be
31 exempt from separation distance requirements but could expand
32 only under certain circumstances: (1) it could not involve
33 the construction or expansion of an unformed manure storage
34 structure, but could involve the replacement of such structure
35 with a formed manure storage structure, and (2) it would have

1 to comply with the separation distance requirement otherwise
2 applicable to the same kind of structure that is part of an
3 operation that was not exempted (New Code section 459.203A).

4 BACKGROUND — SEPARATION DISTANCE REQUIREMENTS. The
5 separation distance required between a benefited object or
6 location and an operation's structure is contingent upon
7 several criteria: first, when the operation's structure was
8 constructed or expanded, and second, the operation's size as
9 determined by calculating its confined animal capacity which
10 is either its animal weight capacity or animal unit capacity
11 (AUC).

12 BACKGROUND — TERMS. An operation includes a totally
13 roofed building where certain confined agricultural animals
14 are maintained for 45 days or more in any 12-month period.
15 An operation's structure includes a building, egg washwater
16 storage structure, or one of two types of manure storage
17 structures: formed or unformed. A formed structure has walls
18 and a floor constructed of durable materials such as concrete
19 as compared to an unformed structure such as an anaerobic
20 lagoon. The Code chapter also refers to a number of different
21 types of benefited objects or locations including a residence
22 (home), religious institution (e.g., a church), educational
23 institution (e.g., a public or nonpublic school), commercial
24 enterprise (e.g., a business other than a farm), public
25 thoroughfare (e.g., road), or a public use area (e.g., a park
26 or cemetery). AUC calculates the maximum number of animal
27 units that may be maintained as part of an operation at any one
28 time. A small animal feeding operation has a maximum-size AUC
29 of 500 animal units. A small confinement feeding operation has
30 a maximum size of 300 animal units.

31 BACKGROUND — CALCULATING ACU. In calculating an
32 operation's ACU, each of various types of confined agricultural
33 animals is assigned a special equivalency factor. For example,
34 each sheep or lamb has an equivalency factor of 0.10 animal
35 units (Code section 459.102). In order to qualify as a small

1 animal feeding operation, an operation must have a maximum AUC
2 of not more than 5,000 of such animals ($500 \div 0.10 = 5,000$).
3 Under the bill, that maximum ACU would be reduced to 3,000
4 animals ($300 \div 0.10 = 3,000$).
5 EFFECTIVE DATE. The bill, if enacted, would take effect upon
6 enactment.